HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 3861 OF 2004

Dated 27th June, 2006

Between:
Vijay Dinkar Rao Hirve S/o Dinkar Rao Hirve

… Petitioner

And

The Deputy Commandant, Central Industrial
Security Force, NFC, Kushaiguda,
Hyderabad and another.

… Respondents.

ORDER:

The petitioner, who is an Head Constable, working in the Central Industrial Security Force Unit, NFC, has filed this writ petition against Office Memorandum dated 14.2.2004, in which, recovery of an amount of Rs.18,523/- is ordered on account of the alleged over payment made to the petitioner by wrong fixation of the salary.

It is the case of the petitioner that, in fact, there was no such wrong fixation and recovery is ordered without any valid ground, that too, without any prior opportunity or notice to the petitioner. Though, it is the case of the petitioner that no notice was issued, there is no denial of such averment in the counter-affidavit. Along with the counter-affidavit, a copy of the order passed by this court in similar writ petition, W.P.No. 21675 of 2002, is filed, wherein respondents were directed to issue notice before passing any orders for recovery.

It is also the case of the petitioner that he is entitled for higher pay because the pay of the similarly placed persons and junior in rank to him is fixed at higher scale than the petitioner.

As far as the claim for stepping up of the pay of the petitioner on par with others is concerned, it is not the subject matter of the writ petition and it is open for the petitioner to make a representation in that regard. But, so far as the impugned order is concerned, the same was not preceded by any notice. In similar such circumstances, this court disposed of Writ Petition No.21675 of 2003 by order dated 11.12.2003. In that view of the matter and having regard to the fact that no notice was issued to the petitioner

before passing the impugned orders of recovery, I dispose of the writ petition setting aside the order dated 14.2.2004 passed in proceedings No. E-27019/NFC/ACCTS/P&T/2003/228 by the respondents. However, it is open for the respondents to issue notice with regard to the alleged excess amount paid to the petitioner by giving the details of such payment and pass appropriate orders. It is equally open to the petitioner to make a representation for stepping up of his pay on the ground that his juniors in the same rank are drawing more salary, and, if such a representation is made, the respondents shall also consider the said representation.

Subject to the above direction, the writ petition is disposed of.

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27.6.2006

(R.SUBHASH REDDY, J.)

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